

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

OCA-GREATER HOUSTON, LEAGUE
OF WOMEN VOTERS OF TEXAS,
REVUP-TEXAS, and
WORKERS DEFENSE ACTION FUND,

Plaintiffs,

v.

TEXAS SECRETARY OF STATE JOHN
SCOTT, *in his official capacity*, TEXAS
ATTORNEY GENERAL KEN
PAXTON, *in his official capacity*,
HARRIS COUNTY ELECTIONS
ADMINISTRATOR ISABEL
LONGORIA, *in her official capacity*,
TRAVIS COUNTY CLERK REBECCA
GUERRERO, *in her official capacity*, HARRIS
COUNTY DISTRICT
ATTORNEY KIM OGG, *in her official
capacity*, TRAVIS COUNTY DISTRICT
ATTORNEY JOSÉ GARZA, *in his
official capacity*,

Defendants.

Civil Action No. 5:21-cv-844(XR)
(Consolidated Case)

1:21-cv-0780-XR

**OCA-GH PLAINTIFFS' RESPONSE TO STATE DEFENDANTS' NOTICE OF
SUPPLEMENTAL AUTHORITY REGARDING PENDING MOTION TO DISMISS**

Plaintiffs OCA-Greater Houston, League of Women Voters of Texas, REVUP-Texas, and Workers Defense Action Fund (OCA-GH Plaintiffs) file this Response to indicate their joinder in the arguments made by the LUPE Plaintiffs, Dkt. 358, and the HAUL and MFV Plaintiffs, Dkt. 359, in response to the State Defendant's Notice of Supplement Authority. *See* Dkt. 333. OCA-GH Plaintiffs additionally file this Response to underscore two further points.

First, State Defendants claim that OCA-GH Plaintiffs merely “emphasize the Secretary [of State]’s general duties” in arguing that he has a sufficient enforcement connection, under *Ex parte*

Young, to the challenged provisions of Senate Bill 1. Dkt. 333 at 2. But that severely understates OCA-GH Plaintiffs’ allegations. OCA-GH Plaintiffs point to both specific statutory duties under the Texas Election Code that direct the Secretary’s office to enforce the challenged SB 1 provisions and specific enforcement actions already taken by the Secretary’s office in regard to the challenged provisions, such as its operational oversight in rolling out SB1’s mail-in ballot application provisions. *See* Dkt. 279 at 3–4 (OCA-GH Plaintiffs’ Response to State Defendants’ Motion to Dismiss).

Second, State Defendants incorrectly claim that the Secretary’s role in designing certain forms is “irrelevant” because OCA-GH Plaintiffs do not challenge the “design or content of the forms.” Dkt. 333 at 3 (citation omitted). But that is also false. In their Complaint and response to State Defendants’ motion to dismiss, OCA-GH Plaintiffs specifically identified Texas Election Code Section 31.002, which instructs the Secretary to prescribe the design and content of both the Application for Ballot by Mail, the mail-in carrier envelope for mail-in ballots, and the oath form’s design and content--all of which the Secretary must modify (and has modified) in order to effectuate the new mail-in voter identification and assistance requirements set forth in the provisions of SB 1 that OCA-GH Plaintiffs challenge. *See* Dkt. 200 at 15–16; Dkt. 279 at 3–4. Plaintiffs specifically seek relief enjoining the use of such modified forms issued by the Secretary.

For these reasons, and for the reasons set forth in OCA-GH Plaintiffs’ Second Amended Complaint, Dkt. 200, and Response to State Defendants’ Motion to Dismiss, Dkt. 279, the Court should deny State Defendants’ Motion to Dismiss OCA-GH Plaintiffs’ claims. Dkt. 240.

Dated April 21, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

By my signature below, I certify that a true and correct copy of the foregoing has been served on all counsel of record on April 21, 2022, through the Electronic Case File System of the Western District of Texas.

/s/ Zachary Dolling